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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,282	02/24/2004	George R. Bowden, III	42P5097C	3868

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EXAMINER

SHANKAR, VIJAY

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,282

Applicant(s)

BOWDEN, ET AL.

Examiner

VIJAY SHANKAR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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2. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,717,567. Although the conflicting claims are not identical, they are not patentably distinct from each other because both teaches the wireless picture display frame comprising a wireless receiver that operates to receive a digital picture from an external source; a display that operates to render the digital picture; a processor coupled to the wireless receiver and the display that operates to control the receiving and rendering of the digital picture; a frame having constructs that encircle the display, and form a housing to house the wireless receiver and the processor; and digital picture is a digital painting or graphics rendition and the digital picture is a digital photograph; the display frame further includes a non-volatile memory coupled to the wireless receiver, the display and the processor, that operates to store the received digital picture, the processor further controlling the storing of the digital picture; and the non-volatile memory is one of a block erasable flash memory, an electrically erasable programmable read only memory (EEPROM), and a complementary metal oxide semiconductor (CMOS) memory; and the processor is one of a 8-bit or more microcontroller, a 16-bit or more digital signal processor and a 32-bit or more general purpose microprocessor.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacklin (6,396,472) in view of Throckmorton et al (5,818,441) .

Regarding Claims 1, 9, and 15, Jacklin teaches a picture display frame (1 in fig.1) or a wall mounted picture display (31 in fig.2; Col.7, lines 23- 50) or a flat surface placement picture display frame (Col.9, lines 1-10; Figs.1-4) comprising:

(a) a receiver that operates to receive a digital picture from an external source (Figs.1-3,6-7; summary; abstract; Col.8, lines 16-39) ;

(b) a flat panel display (7 in fig.1; col.4, lines 23-39) that operates to render the digital picture (summary; abstract; col.6, lines 1-31) ;

(c) a processor (109 in fig.7) coupled to the receiver and the flat panel display that operates to control the receiving and rendering of the digital picture (Fig.7; Col.10, lines 23- Col.11, line 65); and

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(d) a frame having constructs that encircle the flat panel display, and form a housing to house the receiver and the processor (Fig.1-4; 7; Summary; Abstract; Col.10, lines 23-Col.11, line 65); and the frame further having hanging features that facilitate hanging of the picture display frame (31 in fig.2; Col.7, lines 23- 50) and the frame further having support features that facilitate flat surface placement of the picture display frame (Col.9, lines 1-10; Figs.1-4).

However, Jacklin does not teach a frame comprising a wireless receiver that operates to receive a digital picture from an external source.

Throckmorton et al teaches a frame comprising a wireless receiver (36 in fig.2; Col.6, lines 4-35) that operates to receive a digital picture from an external source (Figs. 1-5; Col.6, lines 1-35).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teaching of Throckmorton et al into Jacklin for providing the picture display frame which can receive the picture download thru wirelessly so the picture display frame could be put at any location the user wanted.

Regarding Claims 2, 10, 16, Jacklin teaches the picture display frame wherein the digital picture is a digital painting or graphics rendition (Figs. 1-2; col,6,lines 1-15).

Regarding Claims 3, 11, 17, Jacklin teaches the picture display frame as set forth in claim 1, wherein the digital picture is a digital photograph (Figs. 1-2, col.6,lines 1-15).

Regarding Claims 4, 12, 18, Jacklin teaches the picture display frame, wherein the display frame further includes a non-volatile memory coupled to the receiver, the flat panel display and the processor, that operates to store the received digital picture, the processor further controlling the storing of the digital picture (abstract; Summary;Figs.4,7; Col.9, lines 23-31; col.10, line 23- col. 11,line 65; Col.13, lines 9-22).

Regarding Claims 5, 13, 19, Jacklin teaches the picture display frame wherein the non-volatile memory is one of a block erasable flash memory (col.5, lines 35-52), an electrically erasable programmable read only memory (EEPROM), and a complementary metal oxide semiconductor (CMOS) memory. (abstract; Summary; Figs.4,7; Col.9, lines 23-31; col.10, line 23- col. 11,line 65; Col.13, lines 9-22).

Regarding Claims 6,14, 20, Jacklin teaches the picture display frame wherein the processor is one of a 8-bit or more microcontroller, a 16-bit or more digital signal processor and a 32-bit or more general purpose microprocessor. (Figs.4 and 7; Col.9, lines 23-31; col.10, line 23- col. 11,line 65; Col.13, lines 9-22).

Regarding Claim 7, Jacklin teaches the picture display frame wherein the frame includes hanging features that facilitate hanging of the picture display frame .

Regarding Claim 8, Jacklin teaches the picture display frame wherein the frame includes support features that facilitate flat surface placement of the picture display frame (Col.9, lines 1-10; Figs.1-4).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoyt et al teaches the internet photo booth.

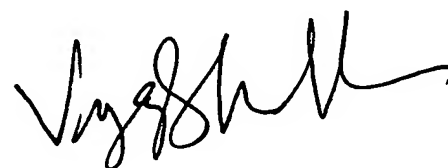
Loudermilk teaches a picture frame.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIJAY SHANKAR whose telephone number is 703-305-4763. The examiner can normally be reached on M-F 7:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BIPIN SHALWALA can be reached on 703-305-4938. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIJAY SHANKAR
Primary Examiner
Art Unit 2673

VS
Dec24,2004